

Wednesday, May 28, 2003

The Board met at its offices at 450 N Street, Sacramento, at 9:45 a.m., with Ms. Migden, Chairwoman, Mr. Parrish, Vice Chairman, Mr. Leonard and Mr. Chiang present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

PUBLIC HEARINGS

Proposed Amendments to Property Tax Rule 462.180, Change in Ownership – Legal Entities

Kristine Cazadd, Assistant Chief Counsel, Property Taxes Section, Legal Division, stated for the record proposed amendments to Property Tax Rule 462.180, Change in Ownership – Legal Entities are clarifying the treatment of limited liability company membership interests and legal entity ownership interests held by spouses as community property. Staff had reviewed the proposed amendments as published and determined that proposed new Example 7 should be modified to clarify that the LLC members from whom the spouses acquire the LLC membership interests are not “original co-owners.”

Speakers: Speakers were invited to address the Board, but there were none.

Action: Upon motion of Mr. Chiang, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board approved the revised language to proposed *Property Tax Rule 462.180, Change in Ownership – Legal Entities*. The rule was referred to the 15-day file (Exhibit 5.11).

Exhibits to these minutes are incorporated by reference.

Mr. Leonard requested that staff provide a history for each new or proposed amendment to any regulation sent before the Board and include this history in the distribution to interested parties.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Atlantic Richfield Company, 134085

1988, \$9,203,702.00 Assessment

For Appellant:

Barry Weissman, Representative

For Franchise Tax Board:

Ira Rubinoff, Tax Counsel

Lorig Mushegain, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has shown that its sales of Britoil stock satisfied the “transactional test” of Revenue and Taxation Code section 25120.

Whether appellant has shown that those shares of Britoil stock were purchased with appellant’s “working capital.”

Whether respondent may constitutionally tax appellant’s gain on its sales of Britoil stock if the Board determines that the stock was not purchased with appellant’s “working capital.”

Appellant’s Exhibit: Miscellaneous Documents (Exhibit 5.12)

Wednesday, May 28, 2003

Action: Upon motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board reversed the action of the Franchise Tax Board.

Oryx Energy Co. & Sun Company, Inc., (R&M), 59288

1982, \$330,467.00 Assessment
1983, \$607,552.00 Assessment
1984, \$814,116.00 Assessment
1985, \$1,457,040.00 Assessment
1986, \$853,014.00 Assessment
1987, \$258,280.00 Assessment
1988, \$267,442.00 Assessment
1989, \$222,697.00 Assessment
1990, \$223,581.00 Assessment

For Appellant:

Eric J. Coffill, Representative
Randy Hutchinson, Representative
Carley A. Roberts, Representative

For Franchise Tax Board:

Jon Jensen, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the gain realized on the sale of Sun Carriers, Inc., is business or nonbusiness income.

Whether respondent properly included sales of appellants' Coal Group in appellants' sales factor numerator for the years 1988-1990.

Respondent's Exhibit: Stock Purchase Agreement (Exhibit 5.13)

Action: Upon motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board submitted the appeal for decision.

Robert and Carol Lienau, 156798

1995, \$21,313.00 Assessment
1996, \$3,754.00 Assessment

Vaughn and Cherye Dickson, 156808

1996, \$2,765.00 Claim for Refund

Anthony and Jacqueline Lienau, 156810

1995, \$26,367.00 Assessment
1996, \$13,153.00 Assessment

Paul and Christine Finie, 156814

1995, \$16,588.00 Claim for Refund
1996, \$2,697.00 Claim for Refund

For Appellant:

Jess Penilla, Representative
Marty Dakessian, Representative
Carlos Perez, Representative
Robert Lienau

For Franchise Tax Board:

Michael Smalley, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Wednesday, May 28, 2003

Issue: Whether the gain realized by Trend Offset Printing Services, Inc. (Trend), on the receipt of insurance proceeds for equipment losses and deferred by Trend under Internal Revenue Code section 1033 is properly chargeable to Trend's capital account for such equipment, and thus constitutes qualified costs for purposes of the Manufacturers' Investment Credit for pass through to appellants.

Appellant's Exhibit: Charts/Regulations/Letters from Arthur Andersen LLP (Exhibit 5.14)

Action: Mr. Parrish moved to grant the petition. Ms. Migden made a substitute motion to take the matter under submission. The motion was seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes.

The McGraw-Hill Companies, Inc., 162177

1993, \$534,430.00 Claim for Refund

1994, \$33,888.00 Claim for Refund

For Claimant:

Jeffrey M. Vesely, Attorney

Annie H. Huang, Attorney

For Franchise Tax Board:

John Penfield, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether Internal Revenue Code section 475, pertaining to the use of "mark-to-market" inventory accounting, was applicable to appellant and effective in California during the years at issue.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 5.15)

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Mercury General Corporation, 145450

1993, \$1,924,582.16 Assessment

1994, \$1,593,504.39 Assessment

1995, \$1,936,025.87 Assessment

1996, \$2,131,411.09 Assessment

For Appellant:

R. Scott Grierson, Representative

Rick Richman, Representative

Gabe Tirador

Theodore Stalick

Ernie Dronenburg, Representative

For Franchise Tax Board:

John Penfield, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issues: Whether appellant has met its burden to prove error in respondent's determination to allocate administrative and operating expense deductions between exempt and nonexempt income.

Whether appellant has met its burden to prove error in respondent's determination to disallow interest expense allocable to exempt income.

Whether appellant should be awarded compensation for the costs that it incurred in bringing this appeal.

Wednesday, May 28, 2003

Appellant's Exhibit: Chart (Exhibit 5.16)

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

PUBLIC COMMENT

East Bay Municipal Utility District acting by and through the Garamendi Family Trust and the Raymond v. Garamendi Exemption Trust, 194594

Melva Bigelow, Associate Director for Government Relations, The Nature Conservancy of California, expressed the concerns of the Nature Conservancy of California regarding the revision of the Assessors' Handbook Section 521, *Assessment of Agricultural and Open-Space Properties*, as to the assessment of conservation easements.

Kathleen Farren, Government Relations Associate, Trust for Public Land, requested the Board continue the assessment policy which has been in place since 1984.

Darla Guenzler, Associate Director, Bay Area Open Space Council, stated for the record that the Bay Area Open Space Council was in Support of the Nature Conservancy of California's position.

PROPERTY TAXES HEARINGS

East Bay Municipal Utility District acting by and through the Garamendi Family Trust and the Raymond v. Garamendi Exemption Trust, 194594

2001-2002 Fiscal Year, \$427,700.00 Value

For Petitioner:

Mark V. Connolly, Attorney
Robert Garamendi
Celeste Garamendi
Jon A. Myers, Representative
John R. Gamper, Dir. of Taxation and Land Use
Michael P. Wright, Certified Appraiser
Gregory D. Hendrickson, Attorney
John M. McCaul, California Regional Director
Patrick Jonston, California Futures Network
Janis Elliott, Assistant County Counsel
Leslie Davis, Appraiser II

For Calaveras County:

For Property and Special Taxes Department:

Michael Lebeau, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Does the grant of a conservation easement result in a change in ownership?

What is the proper assessed value of the conservation easement purchased by

East Bay Municipal Utility District?

Petitioner's Exhibit: Miscellaneous letters and Declarations from John McCaull and Michael Wright (Exhibit 5.17)

Hearing Presentation (Exhibit 5.18)

Wednesday, May 28, 2003

Action: Upon motion of Mr. Chiang, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board ordered that the petition be granted.

The Board recessed at 12:23 p.m. and reconvened at 1:20 p.m. with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly present.

SPECIAL PRESENTATIONS

SUPERIOR ACCOMPLISHMENT AWARD PROGRAM

Ms. Migden and Members of the Board presented Superior Accomplishment Awards to the following-listed employees in recognition of their outstanding achievements:

Individual Gold Award

M. Kelly Reilly

Group Silver Awards

Website Redesign Team

Sandra Axley
Michael Barcena
Simone Collier
Howard Eastin
Rhonda Krause
Gary Lambert
Sherilyn Larsen
Gloria McCormac

Diane Olson
Dean Seavers
Aimee Simons
Ken Topper
Deona Vastine
Mark Walker
Catherine Wurst

Honorable Mention
Barbara Beck
Laura SooHoo

Accounts Receivable Report Development Team

John Calzada

Richard Reger

Michael Szabo

Assembly Bill 2114 Implementation Team

Frank Buckley
Alice Correa
Jo Diaz
Cindy Eaton
Julie Faber

Mark Gabriele
Ario Gilbert
Dan Gostage
Nicole Gugger
Hal Lovell

Bob O'Neill
Linda Ramsey
Joyce Yamada

Small Business Day Event Coordinators

Linda Alexander
Alisha Bilen-Sparks
Mike Carrari
Kathleen Chadwick
Nancy Dumpert
Peter Elash

Thea Etheridge
Victoria Garcia
Aurea Jester
Julie Johansen
Rose Elizabeth Juarez
Rosangela Rosenbach

Cindy Savala
Rita Stephenson
Tina Valente-Gaylord

Honorable Mention
John Huk

Wednesday, May 28, 2003

BOARD PHOTOGRAPH

The annual Board photograph was taken of Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly.

PROPERTY TAX MATTER

VALUATION OF STATE ASSESSED PROPERTIES AS OF JANUARY 1, 2003

Harold Hale, Chief, Valuation Division, Property and Special Taxes Department, made introductory remarks regarding the Valuation of State Assessed Properties.

Electric Generation Facilities

Upon the motion of Mr. Chiang, seconded by Mr. Westly and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2003 be as follows:

1100	AES Alamitos, LLC	629,000,000
1101	AES Redondo Beach, LLC	423,000,000
1102	AES Huntington Beach, LLC	260,700,000
1103	Duke Energy Moss Landing LLC	981,800,000
1104	Duke Energy Morro Bay LLC	106,700,000
1105	Duke Energy Oakland, LLC	14,200,000
1106	Cabrillo Power I, LLC	373,200,000
1107	Cabrillo Power II, LLC	48,000,000
1108	Mirant Potrero, LLC	106,300,000
1109	Mirant Delta, LLC	521,300,000
1110	El Segundo Power LLC	192,700,000
1111	Long Beach Generation LLC	44,900,000
1112	La Paloma Generating Company, LLC	681,000,000
1113	Reliant Energy Coolwater, Inc.	62,400,000
1114	Reliant Energy Mandalay, Inc.	56,800,000
1115	Reliant Energy Ormond Beach, Inc.	166,200,000
1116	Reliant Energy Etiwanda, Inc.	84,400,000
1117	Reliant Energy Ellwood, Inc.	8,300,000
1118	Duke Energy South Bay, LLP	73,100,000
1119	Mountainview Power Company	54,800,000
1120	Riverside Canal Power Company	2,880,000
1122	GWF Energy, LLC	251,500,000
1126	Elk Hills Power, LLC	311,400,000
1127	High Desert Power Trust 2000-A	473,400,000
1129	Gilroy Energy Center, LLC	108,100,000
1136	Blythe Energy, LLC	327,300,000
1137	Sunrise Power Company, LLC	327,000,000
1141	Indigo Generation LLC	98,900,000
1142	Larkspur Energy, LLC	72,400,000
1146	AES Placerita, Inc.	45,700,000

Wednesday, May 28, 2003

Mr. Parrish moved that the market value to be used in the assessment of unitary property of *Delta Energy Center, LLC (1128)* be \$375,600. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Mr. Parrish moved that the market value to be used in the assessment of unitary property of *Pastoria Energy Facility, LLC (1131)* be \$424,000,000. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Mr. Parrish moved that the market value to be used in the assessment of unitary property of *Calpine Construction Finance Co., LP (1132)* be \$240,500,000. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Mr. Parrish moved that the market value to be used in the assessment of unitary property of *Metcalf Energy Center, LLC (1133)* be \$83,400,000. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Mr. Parrish moved that the market value to be used in the assessment of unitary property of *Otay Mesa Generating Company, LLC* be \$80,900,000. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Mr. Parrish moved that the market value to be used in the assessment of unitary property of *Los Esteros Critical Energy Facility, LLC* be \$122,800,000. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Upon the motion of Mr. Chiang, seconded by Ms. Migden and duly carried, Ms. Migden, Mr. Chiang and Mr. Westly voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2003 be as follows:

1128	Delta Energy Centre LLC	563,700,000
1131	Pastoria Energy Facility, LLC	503,100,000
1132	Calpine Construction Finance Co., LP	331,700,000
1133	Metcalf Energy Center, LLC	108,000,000
1134	Otay Mesa Generating Company, LLC	117,400,000
1143	Los Esteros Critical Energy Facility, LLC	146,600,000

Energy Companies

Upon the motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2003 be as follows:

Wednesday, May 28, 2003

101	Southern California Water Company	389,800,000
103	Anza Electric Cooperative, Inc.	14,500,000
106	PacifiCorp	154,100,000
135	Pacific Gas and Electric Company	13,320,900,000
141	San Diego Gas & Electric Co.	2,853,000,000
146	Sierra Pacific Power Company	174,900,000
148	Southern California Edison Company	9,004,700,000
149	Southern California Gas Co.	2,700,000,000
152	Southwest Gas Corporation	148,000,000
160	Valley Electric Association Inc.	47,100
173	Surprise Valley Electrification Corp.	13,000,000
176	Pluma-Sierra Rural Electric Cooperative	28,300,000
180	North Baja Pipeline, LLC	91,400,000
184	Avista Corporation	10,700,000
185	Mountain Utilities	6,182,000
187	Mojave Pipeline Company	93,500,000
188	Kern River Gas Transmission Company	225,000,000
189	Standard Pacific Gas Line, Inc.	20,600,000
190	Tuscarora Gas Transmission Company	87,500,000
191	Arizona Public Service Company	3,010,000
192	Alpine Natural Gas Operating Company No. One LLC	2,651,000
193	Southwest Transmission Cooperative, Inc.	160,000
194	West Coast Gas Company, Inc.	1,380,000
195	Wild Goose Storage, Inc.	51,800,000
196	Questar Southern Trails Pipeline Company	39,700,000
197	El Paso Natural Gas Company	52,000,000
198	Lodi Gas Storage, LLC	105,400,000

Intercounty Pipeline Companies

Upon the motion of Mr. Westly, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2003 be as follows:

400	Standard Gas Company	424,000
402	CALNEV Pipe Line LLC	70,500,000
406	Calpine Pittsburg, Inc.	10,900,000
407	Valero Refining Company - California	1,120,000
409	West Coast Pipe Lines	152,400,000
410	Homestake Mining Company of California	697,000
412	Kings County Canal Company	668,000
429	Chevron U.S.A., Inc.	30,300,000
432	Equilon Enterprises LLC dba Shell Oil Products US	152,100,000
461	SFPP, L.P.	331,700,000
462	ARCO Midcon LLC	1,280,000
464	Ventura Pipeline System	4,910,000
467	Tosco Corporation	805,000
468	Shell California Pipeline Company L. P.	34,300,000
469	San Ardo Pipeline Company	11,300,000

Wednesday, May 28, 2003

475	IMC Chemicals, Inc.	1,490,000
476	Chevron USA, Inc.	6,560,000
477	Union Island Pipeline Company	5,160,000
478	California Gas Gathering, Inc.	108,000
479	Chevron Pipeline Company	28,300,000
480	UNOCAP	53,500,000
483	Mobil Pacific Pipeline Company	2,070,000
484	Calpine Pipeline Corporation	4,680,000

Upon the motion of Mr. Parrish, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of *Natomas Central Mutual Water Company (435)* be \$131,000 as of January 1, 2003.

Upon the motion of Mr. Parrish, seconded by Mr. Chiang and duly carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, Ms. Migden voting no, the Board ordered that the market value to be used in the assessment of unitary property of *Pacific Pipeline System, LLC (486)* be \$204,300,000 as of January 1, 2003.

Upon the motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2003 be as follows:

428	CPN Pipeline Company	12,100,000
465	All American Pipeline, L.P.	59,300,000

Railroad Companies

Upon the motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2003 be as follows:

800	Alameda Belt Line	4,360,000
801	Amador Central Railroad	146,000
802	Central Oregon & Pacific Railroad	4,220,000
804	Burlington Northern & Santa Fe Railway Co.	582,800,000
808	West Isle Line, Inc.	131,000
810	ParkSierra Corporation dba California Northern Railroad	2,590,000
812	Ventura County Railroad	2,770,000
815	California Western Railroad, Inc.	3,355,000
817	Tulare Valley Railroad	315,000
818	Central California Traction Company	5,380,000
834	Lake County Railroad	254,100
839	Oakland Terminal Railway Company	109,000
843	Union Pacific Railroad Company	818,500,000
850	Modesto & Empire Traction Company	18,400,000

Wednesday, May 28, 2003

857	Richmond Pacific Railroad Corporation	483,000
865	San Diego & Imperial Valley Railroad Co. Inc.	3,860,000
869	Santa Maria Valley Railroad Company	1,780,000
871	Sierra Railroad Company	941,000
878	Stockton Terminal and Eastern Railroad	9,760,000
882	Trona Railway Co.	14,100,000
883	McCloud Railway Company	1,610,000
889	Yreka Western Railroad Co.	479,600
892	Almanor Railroad Company	238,000
894	Napa Valley Wine Train, Inc.	11,600,000
896	Santa Cruz Big Trees & Pacific Railway Co.	847,000
897	San Joaquin Valley Railroad Company	7,880,000
898	Yolo Shortline Railroad Company	655,000
899	ParkSierra Corporation dba Arizona & California Railroad	8,170,000

Upon the motion of Mr. Chiang, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of *Pacific Harbor Lines (813)* be \$5,320,000 as of January 1, 2003.

Radio Telephone and Paging Companies

Upon the motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2003 be as follows:

3005	Mobilephone of Humboldt, Inc.	208,000
3039	Fresno Mobile Radio Inc.	688,000
3052	Vincent Communications, Inc.	46,800
3362	Madera Radio Dispatch, Inc.	403,000
3369	Cal-Autofone	426,000
3374	Radio Electronics Products Corp.	26,100
3427	Access Paging Company, Inc.	63,700
3430	Metrocall, Inc.	4,710,000
3432	Point BTA 79 LLC	50,000
3433	Point BTA 371 LLC	50,100

Upon the motion of Mr. Chiang, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2003 be as follows:

3342	High Sierra Mobilfone	12,760
3348	Donald G. Pollard	5,720
3360	Sylvan B. Malis	51,480

Wednesday, May 28, 2003

Interexchange Telephone Companies

Upon the motion of Mr. Parrish, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2003 be as follows:

2014	Sprint Communications Co., L.P.	895,800,000
2035	Cable & Wireless USA, Inc.	66,900,000
2038	Verizon Airfone Inc.	2,580,000
2043	Pac West Telecomm, Inc.	92,300,000
2054	Spacenet, Inc.	888,000
2063	Extelcom, Inc.	2,140,000
2096	GTE Railfone/Amtrak Venture	4,840
2099	Smart City Networks LP	684,000
2131	ICG Consolidated, Inc.	31,200,000
2207	Global Crossing Telecommunications, Inc.	42,000,000
2274	MCIWorldCom Network Services, Inc.	708,300,000
2275	SES Americom, Inc.	579,000
2310	AT&T Communications, Inc.	1,097,600,000
2322	WorldCom International Data Services, Inc.	11,200,000
2329	Intellicall Operator Services, Inc.	103,840
2351	Global Crossing Bandwidth, Inc.	1,010,000
2368	Globe Wireless, LLC	1,980,000
2372	MCImetro Access Transmission Services, LLC	351,600,000
2376	Working Assets Funding Service, Inc.	798,000
2388	Genuity Telecom, Inc.	259,000
2391	Arrival Communications, Inc.	4,700,000
2416	NOS Communications, Inc.	1,738,000
2430	Electric Lightwave, Inc.	96,250,000
2432	Claircom Communications Group, Inc.	238,000
2437	Dialink Corporation	35,300
2443	National Comtel Network, Inc.	12,300
2448	RhondaCom, Inc.	4,000
2462	ICG Telecom Group, Inc.	53,500,000
2463	Qwest Communications Corporation	158,900,000
2470	Broadwing Telecommunications, Inc.	4,200
2475	Vartec Telecom, Inc.	2,000,000
7503	Verizon Select Services, Inc.	9,450,000
7507	T-NETIX, Inc.	1,430,000
7512	Citizens Telecommunications Company	4,800,000
7517	Vycera Communications, Inc.	812,000
7522	Time Warner Telecom of California, L.P.	253,600,000
7528	NetSolve Incorporated	9,570
7536	Global Crossing North American Networks, Inc.	29,600,000
7538	Tremcom International, Inc.	237,600
7544	Telswitch, Inc.	28,800
7553	Comcast Phone of California, LLC	258,800,000
7560	XO Communications, Inc.	61,000,000
7571	Network Enhanced Technologies, Inc.	1,940,000
7577	Qwest Interprise America, Inc.	7,460,000

Wednesday, May 28, 2003

7580	Evercom Systems, Inc.	432,300
7581	ABS-CBN Telecom North America, Inc.	308,000
7588	PNG Telecommunications, Inc.	31,350
7621	SES Americom California, Inc.	6,220,000
7625	TCAST Communications, Inc.	1,850,000
7630	Broadwing Communications Services, Inc.	3,080,000
7636	Network Telephone Services, Inc.	5,480,000
7638	Integrated Telemanagement Services, Inc.	33,660
7640	Cox California Telecom, L.L.C.	129,700,000
7642	Fibrcom, Inc.	241,000
7645	Communications Brokers & Consultants	9,570
7686	Primus Telecommunications, Inc.	1,010,000
7690	California Catalog & Technology (CCT)	19,000
7699	Legacy Long Distance International	410,000
7703	Transcommunications, Inc.	89,800
7705	Sierra Telephone Long Distance	63,700
7706	Covad Communications Company	107,580,000
7707	Roseville Long Distance Company	10,600
7708	San Diego Telecom, Inc.	26,180
7711	FTS Communications, Inc.	10,670
7712	Dancris Telecom, LLC	1,254,000
7715	Teligent Services, Inc.	20,500
7723	Opentel Communications, Inc.	471,900
7724	Mpower Communications Corporation	15,200,000
7727	Sprint Services, Inc.	4,720,000
7729	New Global Telecom, Inc.	1,980,000
7732	NTT America, Inc.	13,310,000
7733	Genuity Solutions, Inc.	46,500,000
7735	Pacific Centrex Services, Inc.	52,800
7740	TRI-M Communications, Inc.	257,000
7742	Allegiance Telecom of California, Inc.	114,600,000
7747	TGEC Communications, Co., LLC	137,000
7754	World Network Communications, Inc.	2,500
7756	Centergistic Solutions	133,000
7758	BT North America, Inc.	18,400,000
7759	Focal Communications Corp. of California	18,600,000
7760	Teleglobe USA, Inc.	22,400,000
7761	Level 3 Communications, LLC	390,300,000
7762	Telco Network Services, Inc.	6,920,000
7764	Diamond Link, Inc.	912,000
7766	KDDI America, Inc.	4,800,000
7775	RCN Telecom Services of California Inc.	80,100,000
7776	SmartStop, Inc	167,000
7777	Micro General Services Corp.	1,030,000
7779	360networks (USA) Inc.	26,100,000
7782	Ton Services, Inc.	97,400
7785	McLeodUSA Telecommunications Services, Inc.	173,000
7790	NTC Network, LLC	63,800
7792	Point to Point, Inc.	269,000
7796	Samsung SDS America, Inc.	2,585,000
7798	United States Advanced Network, Inc	1,490,000
7799	Wilshire Connection, LLC	1,660,000

Wednesday, May 28, 2003

7800	New Edge Network, Inc.	6,690,000
7802	Network Enhanced Telecom, LLC	2,190,000
7808	Nosc Corporation	2,400
7812	True America Communications, Inc.	219,000
7813	Advanced Telcom, Inc.	17,600,000
7814	PaeTec Communications, Inc.	5,190,000
7815	GTC Telecom Corp.	354,000
7818	Wholesale Telecom, Inc.	9,500
7819	WilTel Communications, Inc.	260,700,000
7823	U.S. Telestar Communications Group	2,200
7824	Kertel Communications, Inc.	410,000
7837	Metromedia Fiber Network Services, Inc.	205,480,000
7845	San Carlos Telecom, Inc.	74,400
7850	Sempre Communications	59,500
7853	iTELCO Communications, Inc.	38,280
7859	EAS Communications, Inc.	349,000
7860	PocketPass. com, Inc.	16,600
7861	Looking Glass Networks, Inc.	15,500,000
7862	Bigzoo.com Corporation	900,900
7863	Sentre Telecom, LLC	22,900
7866	Telmex USA, LLC	578,600
7867	The Telephone Connection IXC Services, LLC	26,600
7868	Fones 4 All Corporation	20,700
7869	Verizon Advanced Data Inc.	149,000,000
7870	Communications Express, Inc.	38,940
7871	GTE.NET LLC, dba Verizon Internet Solutions	737,000
7872	Infotech Telecommunication & Network, Inc.	3,400
7874	Competitive Communications, Inc.	638,000
7875	Allcom USA	22,880
7876	Total Call International, Inc.	1,110,000
7877	Touch America, Inc.	50,200,000
7878	Novacom Global, Inc.	99,660
7880	Quick-Tel, Inc.	5,000
7885	SBC ASI/SBC ASI P&L L.P.	499,900,000
7886	Tele Direct Telecommunications Group, LLC	300,300
7887	Accessline Communications Corporation	647,900
7890	Wholesale Air-Time, Inc.	156,000
7892	OnFiber Communications, Inc.	17,400,000
7893	GoBeam, Inc.	1,550,000
7894	Ponderosa Cablevision	1,090,000
7897	Ideas-for-Business	8,360
7898	United States Telesis, Inc.	3,800
7899	RGT Utilities of California, Inc.	174,900
7900	Viva Telecom, LLC	235,000
7902	Zone Telecom, Inc.	1,380,000
7904	MercedNet, Inc.	3,120,000
7905	KMC Millennium, LLC	13,000,000
7906	netGuru, Inc.	456,500
7907	Telscape Communications, Inc.	10,400,000
7908	Priocom Corp.	98,500
7909	ACC Telecommunications, LLC	20,900,000
7910	Altrio Communications, Inc.	62,800,000

Wednesday, May 28, 2003

7911	WTI System & Services, Inc.	193,000
7912	Americom Government Services, Inc.	517,000
7913	VCOM Solutions, Inc.	20,350
7914	McLeodUSA Network Services, Inc.	4,340,000
7915	Ameritech Communications International, Inc.	425,000
7916	Peak Communications, Inc.	4,800
7917	APEX Telecom, Inc.	90,420
7919	Verizon Avenue Corp.	2,453,000
7922	Novatel Global, LLC	344,300
7924	BAK Communications, LLC	1,570,000
7925	United Communications HUB, Inc.	122,100
7926	DSLnet Communications, LLC	170,000
7927	Dial Thru International Corporation	761,000
7931	Universal Access, Inc.	1,710,000
7932	Metro Access Exchange, LLC	25,900
7934	Telecom House Inc.	78,500

Mr. Parrish moved that the market value to be used in the assessment of unitary property of *Public Communications Services, Inc. (7811)* be \$1,450,000. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Mr. Parrish moved that the market value to be used in the assessment of unitary property of *Seren Innovations, Inc. (7832)* be \$162,300,000. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Mr. Parrish moved that the market value to be used in the assessment of unitary property of *ZTG, Inc. (7945)* be \$53,400. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Upon the motion of Ms. Migden, seconded by Mr. Chiang and duly carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, Mr. Parrish voting no, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2003 be as follows:

7811	Public Communications Services, Inc.	1,595,000
7832	Seren Innovations, Inc.	180,300,000
7945	ZTG, Inc.	58,740

Upon the motion of Mr. Chiang, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2003 be as follows:

Wednesday, May 28, 2003

2366	Value-Added Communications, Inc.	76,300
2383	Matrix Telecom, Inc.	67,000
2403	Economy Telephone, Inc.	8,250
2447	RSL COM USA, Inc.	950,400
7579	Moving Bytes, Inc.	370,700
7610	QAI, Inc. dba Long Distance Billing	207,900
7632	Business Discount Plan, Inc.	270,600
7677	Talk America Inc.	1,243,000
7757	U.S. Telepacific Corp.	27,170,000
7769	Airnex Communications, Inc.	477,400
7781	Korea Telecom America, Inc.	1,419,000
7791	O1 Communications, Inc.	2,670,000
7801	Global West Network, Inc.	2,577,300
7810	California Network Management, Inc.	16,610
7826	Bitro Telecommunications, Inc.	1,650,000
7846	The Telephone Connection Local Services, LLC	8,700
7883	Telegate, Inc.	5,040,000
7933	WorldxChange Corporation	4,200,000
7936	Local Telecom Holdings, LLC/Transport Communications	18,400
7938	McBlue Telecom Inc.	66,700
7939	Samsung Networks America, Inc.	9,900
7940	Consumer Telecom, Inc.	3,200
7941	Netarena Communications Corporation	7,400
7942	Innosys Computing, Inc.	765,000
7943	Veracom Networks, Inc.	1,320
7944	VoloNet Technologies, Inc.	491,000
7946	Netifice Communications, Inc.	433,000
7947	IDT/Winstar Communications, LLC	1,049,400
7948	Telenor Satellite Services, Inc.	17,500,000
7949	Anew Telecommunications Corp. D/B/A Call America	10,890
7950	ATMC, Inc.	10,780
7951	SBC Communications Services, Inc.	13,100,000
7952	Advanced Tel, Inc.	25,500
7953	Openpop.com, Inc.	234,000
7954	Xpedius Manangement Company Switched Services, LLC	34,800
7955	Enhanced Communications Network, Inc.	91,500
7956	Telespan Communications, LLC	108,000
7957	C.F. Communications, Inc.	15,600
7958	KDI Distribution, Inc.	86,570
7959	Airespring, Inc.	16,100
7960	CallTower, Inc.	495,000
7961	SureWest Televideo dba: SureWest Broadband	27,500,000
7962	KMC Funding Corporation	23,700,000
7963	KMC Telecom XI, LLC	737,000
7964	Aries Network, Inc.	116,600
7965	VizAbility Communications, Inc.	9,570
7966	Direct One, LLC	50,160
7967	New World Telecom International, Inc.	192,000
7968	N.T. Assets, LLC dba (Xspedius) Fiber Group	490,000
7969	Intelsat Global Service Corporation	9,840,000
7970	Riverside Teleport Corporation	474,000
7971	Calpoint (California), LLC	40,040,000

Wednesday, May 28, 2003

Wireless Telephone Companies

Upon the motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2003 be as follows:

2512	Verizon Wireless (VAW) LLC	182,400,000
2513	Sacramento Valley Limited Partnership	171,500,000
2532	Los Angeles SMSA Ltd. Partnership	752,700,000
2552	Fresno MSA LP	70,500,000
2559	GTE Mobilnet of California, Ltd. Partnership	345,100,000
2596	Mall Telecommunications	34,600
2602	Digital Communications Network, Inc.	225,000
2605	Nova Cellular West, Inc.	60,000
2606	AT&T Wireless Services of California, LLC.	320,200,000
2611	Cagal Cellular Communications Corporation	13,600,000
2616	MCI Wireless, Inc.	6,570,000
2622	Bakersfield Cellular Telephone Company	24,800,000
2626	Santa Barbara Cellular Systems, Ltd.	34,400,000
2627	GTE Mobilnet of Santa Barbara LP	36,700,000
2630	Santa Cruz Cellular Telephone Co.	8,547,000
2637	Salinas Cellular Telephone Company	15,500,000
2639	Redding Cellular Partnership	3,470,000
2643	Yuba City Cellular Telephone Company	1,980,000
2649	Action Cellular Rent-A-Phone, Inc.	272,000
2659	Cal-One Cellular, LP	8,520,000
2665	WWC License LLC	5,240,000
2667	Cellco Partnership	65,600,000
2668	California RSA No. 3 Limited Partnership	7,470,000
2669	California RSA #4 LP	12,700,000
2671	California Rural Service Area #1, Inc.	22,500,000
2672	El Dorado Cellular	3,870,000
2680	ConexOne Communications LLC	350,900
2681	Everything Wireless, L.L.C.	68,000
2683	Pay-Less Cellular	1,890,000
2696	Cellular Express, Inc.	128,000
2698	Digital Cellular, Inc.	39,600
2715	Worldwide Cellular, Inc.	20,300
2720	Sprint Telephony PCS, L.P.	686,800,000
2722	Sprint Spectrum L.P.	489,200,000
2733	Metro PCS California/Florida, Inc.	97,000,000
2737	Nextel of California, Inc.	518,300,000
2746	Alpine PCS, Inc.	24,900,000
2747	VIA Wireless LLC	55,200,000
2748	Pacific Bell Wireless, LLC	912,100,000
2749	AT&T Wireless PCS, LLC.	92,800,000
2751	UbiquiTel, Inc.	21,450,000
2753	Edge Wireless, LLC	12,400,000
2754	Metro One Telecommunications, Inc.	11,700,000
2755	Southwestern Bell Mobile Systems, LLC	101,000,000

Wednesday, May 28, 2003

2756	Cingular Wireless, LLC	16,700,000
2758	Image Paging & Cellular	86,350
2759	OnStar Corporation	74,700
2760	Fisher Wireless Services, Inc.	3,080,000
2761	Omnipoint Communications, Inc.	125,500,000
2762	Cricket Communications, Inc.	37,950,000

Upon the motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of *Dobson Cellular Systems, Inc. (2675)* be \$22,400,000 as of January 1, 2003.

Upon the motion of Mr. Parrish, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of *West Coast P.C.S. (2745)* be \$66,800,000 as of January 1, 2003.

Ms. Migden moved to adopt the staff's recommendation for the market value to be used in the assessment of unitary property on the remaining items. The motion was seconded by Mr. Parrish. Ms. Migden withdrew the motion.

Mr. Parrish moved that the market value to be used in the assessment of unitary property of *Bay Area Cellular Telephone Co. (2502)* be \$289,600,000. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Mr. Parrish moved that the market value to be used in the assessment of unitary property of *AB Cellular Holding, LLC (2547)* be \$457,100,000. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Mr. Parrish moved that the market value to be used in the assessment of unitary property of *Napa Cellular Telephone Company (2628)* be \$7,130,000. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Mr. Parrish moved that the market value to be used in the assessment of unitary property of *Visalia Cellular Telephone Company (2641)* be \$4,930,000. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Upon the motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of *Intouch America, Inc. (2658)* be \$71,830 as of January 1, 2003.

Wednesday, May 28, 2003

Mr. Parrish moved that the market value to be used in the assessment of unitary property of *Nevada County Cellular Corporation (2676)* be \$1,180,000. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Mr. Parrish moved that the market value to be used in the assessment of unitary property of *SLO Cellular, Inc. (2687)* be \$13,750,000. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Upon the motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of *Smartel Cellular Telecomm, Inc., (2744)* be \$35,310 as of January 1, 2003.

Upon the motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of *National Telemanagement Corporation (2750)* be \$39,600 as of January 1, 2003.

Upon the motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2003 be as follows:

2764	NICHA-CA, Inc.	\$510,000
2765	Terabeam Corporation	1,110,000
2766	ACCRA Wireless, Inc.	5,060

Upon the motion of Ms. Migden and duly carried, Ms. Migden, Mr. Chiang and Mr. Westly voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2003 be as follows:

2502	Bay area Cellular Telephone	363,100,000
2547	AB Cellular Holding, LLC.	581,000,000
2628	Napa Cellular Telephone Company	23,200,000
2641	Visalia Cellular Telephone Company	8,050,000
2676	Nevada County Cellular Corporation	2,600,000
2687	SLO Cellular, Inc.	21,340,000

Local Exchange Companies

Upon the motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2003 be as follows:

Wednesday, May 28, 2003

201	Verizon California Inc.	3,562,900,000
202	CenturyTel of Eastern Oregon, Inc.	141,000
205	Ponderosa Telephone Co.	29,600,000
209	Pinnacles Telephone Co.	1,120,000
210	Calaveras Telephone Company	7,250,000
228	Ducor Telephone Company	8,580,000
229	Evans Telephone Company	11,200,000
235	Foresthill Telephone Co.	2,830,000
239	Hornitos Telephone Company	1,110,000
240	Happy Valley Telephone Company	2,630,000
246	Kerman Telephone Company	9,770,000
270	Citizens Telecommunications Company of Golden State	13,400,000
279	SBC California	10,640,500,000
286	Sierra Telephone Company, Inc.	46,900,000
294	Roseville Telephone Company	181,500,000
311	Citizens Telecommunications Company of Tuolumne	7,220,000
320	Verizon West Coast Inc.	14,200,000
328	Cal-Ore Telephone Co.	8,870,000
330	Winterhaven Telephone Company	2,050,000

Upon the motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of *The Siskiyou Telephone Company (301)* be \$17,800,000 as of January 1, 2003.

Upon the motion of Mr. Parrish, seconded by Mr. Leonard and duly carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, Ms. Migden voting no, the Board ordered that the market value to be used in the assessment of unitary property of *Volcano Telephone Company (327)* be \$25,800,000 as of January 1, 2003.

Upon the motion of Ms. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of *Citizens Telecommunications Company of California (284)* be \$174,000,000 as of January 1, 2003.

FINAL ACTION ON APPEALS HEARD MAY 28, 2003

Ms. Migden moved to sustain the action of the Franchise Tax Board, in the appeal of *Oryx Energy Co. & Sun Company, Inc., (R&M), 59288*. The motion failed for lack of a second.

Mr. Leonard moved to sustain the action of the Franchise Tax Board regarding Issue 1 and reverse the action regarding Issue 2. The motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden and Mr. Westly voting no, Mr. Chiang not participating.

The Board deferred consideration of this matter.

Wednesday, May 28, 2003

Ms. Migden moved to sustain the action of the Franchise Tax Board in the appeal of *Robert and Carol Lienau, 156798; Vaughn and Cherye Dickson, 156808; Anthony and Jacqueline Lienau, 156810; and, Paul and Christine Finie, 156814*. Mr. Parrish offered a substitute motion to reverse the action of the Franchise Tax Board. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden and Mr. Westly voting no, Mr. Chiang not participating.

The Board deferred consideration of this matter.

Upon motion of Ms. Migden, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, in the appeal of *The McGraw-Hill Companies, Inc., 162177*, the Board sustained the action of the Franchise Tax Board.

The Board deferred consideration of *Mercury General Corporation, 145450*.

LEGAL APPEALS MATTERS, ADJUDICATORY

L. A. Mattress, Inc., 129840

1-1-97 to 12-31-99, \$41,991.03 Tax, \$4,199.11 Negligence Penalty

Considered by the Board: April 23, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered to grant the petition for rehearing.

JKS Industries, Inc., 156586

4-1-98 to 12-31-00, \$6,345.12 Tax

Considered by the Board: Hearing Notice Sent—No Response

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed.

Action: Upon motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition be denied and redetermined as recommended by the Appeals Division.

Melissa J. Stripling, 162545

1-1-98 to 12-31-00, \$2,117.22 Tax, \$647.23 Negligence Penalty

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed.

Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and duly carried, Mr. Parrish, Mr. Leonard, and Mr. Westly voting yes, Ms. Migden and Mr. Chiang voting no, the Board ordered that the penalty be canceled, otherwise redetermined as recommended by the Appeals Division.

Wednesday, May 28, 2003

Amador Stage Lines, Inc., 93966, 102005

4-1-97 to 12-31-99, \$109,214.52 Tax, \$00.00 Negligence Penalty

Considered by the Board: April 23, 2003

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Action: (Motion expunged.)

Upon motion of Mr. Westly, seconded by Mr. Parrish and duly carried, Mr. Parrish, Mr. Leonard, and Mr. Westly voting yes, Ms. Migden and Mr. Chiang voting no, the Board ordered that the petition be granted with regards to the Amtrak contracts.

Upon motion of Mr. Westly, seconded by Mr. Parrish and duly carried, Mr. Parrish, Mr. Leonard and Mr. Westly voting yes, Ms. Migden and Mr. Chiang voting no, the Board ordered that the remainder of the petition be denied and redetermined as recommended by the Appeals Division.

Gary Fisher and Terry Edwards, 89002181700

10-1-93 to 6-30-96, \$77,363.66 Tax, \$00.00 Negligence Penalty

Considered by the Board: February 5, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition be denied and redetermined as recommended by the Appeals Division.

Ms. Mandel entered the Boardroom on behalf of Mr. Westly in accordance with Government Code section 7.9.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Stephen D. Bragg, 110567, 119357

1993, \$48,153.00 Tax

1995, \$42,658.00 Tax, \$10,664.00 Late Filing Penalty

Considered by the Board: Formal Opinion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted the formal opinion.

James N. Harger, 171249

1997, \$3,535.00 Assessment

1998, \$3,587.00 Assessment

Considered by the Board: Formal Opinion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted the formal opinion.

Wednesday, May 28, 2003

American General Realty Investment Corporation Inc., 156726

1991, \$8,640,922.00 Claim for Refund

Considered by the Board: February 5, 2003

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed.

Action: The Board deferred consideration of this matter.

Baxter Healthcare Corporation, 140712

12-31-95, \$1.00 or more Claim for Refund

Considered by the Board: February 5, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Migden and duly carried, Ms. Migden and Mr. Parrish voting yes, Mr. Leonard voting no, Mr. Chiang not participating, Ms. Mandel not participating in accordance with Government Code section 87105, the Board adopted a decision sustaining the action of the Franchise Tax Board.

Richard Gallovich, 174619

1991, \$236.75 Late Filing Penalty

Considered by the Board: April 23, 2003

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

David and Cindy Galvez, 171221

1997, \$1.00 or more Assessment

Considered by the Board: April 23, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Mr. Parrish moved to abate interest on periods prior to April 25, 2001. The motion failed for lack of a second.

Upon motion of Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

The Landover Company, 172440

1991, \$1,612.25 Claim for Refund

1992, \$1,528.42 Claim for Refund

1993, \$252.91 Claim for Refund

10-31-94, \$278.02 Claim for Refund

10-29-95, \$3,724.41 Claim for Refund

10-27-96, \$2,903.17 Claim for Refund

10-26-97, \$950.02 Claim for Refund

Considered by the Board: March 4, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Wednesday, May 28, 2003

Action: Mr. Parrish moved that the penalty be canceled, otherwise sustain the action of the Franchise Tax Board. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

Upon motion of Ms. Migden and duly carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board adopted a decision sustaining the action of the Franchise Tax Board.

Christopher and Lupe McDonald, 183393

1998, \$6,208.60 Claim for Refund

Considered by the Board: April 23, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

Dale McRaven, 166385

1982, \$15,198.00 Assessment

Considered by the Board: March 4, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: The Board deferred consideration of this matter directing staff to process the appeal under the new guideline for Innocent Spouse appeals.

Jesus Parrilla, 181466

1999, \$101.01 Claim for Refund

Considered by the Board: April 23, 2003

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed.

Action: Ms. Migden moved to sustain the action of the Franchise Tax Board. The motion was seconded by Mr. Chiang. Mr. Leonard made a substitute motion to reverse the action of the Franchise Tax Board. The motion was seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes.

Polaroid Corporation, 62415

1990, \$5,287.00 Assessment

1991, \$3,151,099.00 Assessment

Considered by the Board: March 26, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

SPECIAL TAXES MATTERS, REDETERMINATIONS, ADJUDICATORY

Fireman's Fund Insurance Company, 167605

1-1-97 to 12-31-97, \$207,158.78

Considered by the Board: April 23, 2003

Action: The Board took no action.

Wednesday, May 28, 2003

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of these matters: *C & D Industrial Supply, Inc., 134879; Paramount Pictures Corporation, 89000019140; Parmodh Chander and Usha Rani 214696; and, Parmodh Chander and Usha Rani, 215463.*

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

I.B.I. Leasing and Renting, Inc., 115213

1-1-92 to 6-30-96, \$1,856,990.00 Tax, \$38,173.40 Fraud Penalty

Hayat Car Rental Systems, Inc., 134591

3-2-92 to 6-30-96, \$1,765,571.00 Tax, \$36,287.77 Fraud Penalty

Elias Gebran Chaghouri, 134592

5-2-94 to 6-30-96, \$773,980.00 Tax, \$15,797.80 Fraud Penalty

Hayat Elias Chaghouri, 134593

3-2-92 to 6-30-96, \$775,340.00 Tax, \$15,864.68 Fraud Penalty

Fadi Elias Chaghouri, 134589

1-1-92 to 6-30-96, \$1,333,701.00 Tax, \$27,380.42 Fraud Penalty

Gaby Charles Chaghouri, 134590

1-1-92 to 5-2-94, \$561,081.00 Tax, \$11,571.85 Fraud Penalty

Action: Deny the petition for rehearing as recommended by the Appeals Division.

Integrated Packaging Assembly Corporation, 80546

1-1-97 to 3-31-97, \$76,335.27 Claim for Refund

Action: Deny the petition for rehearing as recommended by the Appeals Division.

BAT PC Technology, Inc., 150666

1-1-98 to 12-31-00, \$3,152.24 Tax

Action: Redetermine as recommended by the Appeals Division.

C & D Industrial Supply, Inc., 134879

1-1-97 to 6-30-00, \$63,231.47 Tax

Action: The Board deferred consideration of this matter.

Transamerican Plastics Corporation, 89000204920

10-1-94 to 9-30-97, \$00.00 Tax

Action: Redetermine as recommended by the Appeals Division.

Midwest Shoes, Inc., 63294, 103434

7-1-95 to 12-31-99, \$00.00 Tax, \$00.00 Fraud Penalty

1-1-00 to 1-24-00, \$00.00 Tax, \$00.00 Fraud Penalty

Action: Redetermine as recommended by the Appeals Division.

Wednesday, May 28, 2003

Puente Hills Hop Corporation, 119356

7-1-00 to 12-31-00, \$24,895.12 Tax, \$00.00 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Richard Klein Design, Inc., 89000664700

7-1-94 to 6-30-97, \$00.00 Tax

Action: Redetermine as recommended by the Appeals Division.

Ragold Corporation, 152307

1-1-96 to 6-30-99, \$00.00 Tax, \$00.00 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Micro Age Computer Centers, 91439

7-1-95 to 6-30-98, \$00.00 Tax

Action: Redetermine as recommended by the Appeals Division.

Bernard O. Tirta, 158228

4-1-98 to 3-31-01, \$00.00 Tax

Action: Redetermine as recommended by the Appeals Division.

Optical Disc Mastering Equipment, Inc., 165698

4-1-98 to 3-31-01, \$00.00 Tax

Action: Redetermine as recommended by the Appeals Division.

Paramount Pictures Corporation, 89000019140

7-1-92 to 12-31-95, \$734.25 Tax

Action: The Board deferred consideration of this matter.

Tonia Allen Gould, 131814

4-1-97 to 2-22-00, \$00.00 Tax, \$00.00 Failure to File and Failure to Timely Pay Penalties

Action: Redetermine as recommended by the Appeals Division.

Laserscope, 144840, 182318

10-1-97 to 12-31-99, \$00.00 Tax, \$00.00 Negligence Penalty

10-1-97 to 12-31-98, \$00.00 Claim for Refund

Action: Redetermine as recommended by the Appeals Division.

Parmodh Chander and Usha Rani 214696

March 6, 2003 Notice of Seizure and Forfeiture

Action: The Board deferred consideration of this matter.

Parmodh Chander and Usha Rani, 215463

March 6, 2003 Notice of Seizure and Forfeiture

Action: The Board deferred consideration of this matter.

Wednesday, May 28, 2003

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of these matters: *Kennebeck Editions, LLC, 172823*; and, *California Steel Industries, Inc., 160703*.

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Ms. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

Castle Securities Corporation, 182971

9-30-96, \$800.00 Tax, \$466.10 Penalties

9-30-97, \$800.00 Tax, \$466.10 Penalties

Action: Sustain the action of the Franchise Tax Board.

Donald G. Ebbert, 183564

1992, \$6,045.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Myrna Green, 169974

1985, \$215.79 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Kennebeck Editions, LLC, 172823

1998, \$395.26 Claim for Refund

Action: The Board deferred consideration of this matter.

Joseph N. Leonardo, 192149

1996, \$10,561.00 Tax, \$2,112.20 Accuracy Related Penalty

1997, \$7,962.00 Tax, \$1,538.40 Accuracy Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Candice Salas, 174078

1997, \$28,170 Tax, \$5,634.00 Accuracy Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Huy Tran, 185508

2001, \$75.91 Claim for Refund

Action: Sustain the modified action of the Franchise Tax Board.

California Steel Industries, Inc., 160703

1995, \$901,729.40 Assessment

1996, \$13,055.36 Assessment

Action: The Board deferred consideration of this matter.

Wednesday, May 28, 2003

Joseph Leonard Neufeld, 169531

1999, \$8,372.00 Tax, \$2,093.00 Notice and Demand Penalty, \$2,093.00 Late Filing Penalty

Action: Deny the petition for rehearing.

OTN, Inc. and Affiliates, 162176

3-31-95, \$1,444,975.00 Claim for Refund

Action: Deny the petition for rehearing.

Don Roland Taylor II, 162741

1999, \$964.00 Assessment

Action: Deny the petition for rehearing.

David R. and Patricia Ann Walsh, 162751

1996, \$38,470.00 Claim for Refund

Action: Deny the petition for rehearing.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

With respect to the Homeowner and Renter Property Tax Assistance Matters Consent Agenda, upon a single motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

Fred Earl, 195791

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Jose Hernandez, 194187

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Chong Ye Hu, 194572

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Diane Johnson, 193536

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Felix Kho, 187800

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Eleonora Kiselev, 191356

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Wednesday, May 28, 2003

Yunsoon Lee, 196713

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Maxine McIntosh, 194147

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Burton B. McLain, 198885

2002, \$340.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

F. Vila Medina, 194182

2001, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Dolores Rivera, 195633

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Isaac Williams, 193452

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

**SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES
AND DENIALS OF CLAIMS FOR REFUND, CONSENT**The Board deferred consideration of this matter: *Micromass, Inc., 216089.*

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties and Denials of Claims for Refund, Consent Agenda, upon a single motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 on *SBC Datacomm, Inc., 216058*, the Board made the following orders:

D/T Carson Enterprises, Inc., 190535

10-1-98 to 9-30-01, \$54,449.47

Action: Approve the redetermination as recommended by staff.

Sort Well, Inc., 175464

12-31-00, \$53,178.13

Action: Approve the redetermination as recommended by staff.

E3 Associates Ltd., 182960

1-1-93 to 3-31-01, \$152,750.79

Action: Approve the redetermination as recommended by staff.

Wednesday, May 28, 2003

Catherines of California, 193243

4-1-98 to 6-30-01, \$52,225.70

Action: Approve the redetermination as recommended by staff.

Frank Hurling Chevrolet, Inc., 214943

4-1-01 to 6-30-01, \$62,250.00

Action: Approve the relief of penalty as recommended by staff.

Mobile Telesys, Inc., 214995

10-1-00 to 12-31-00, \$64,105.00

Action: Approve the relief of penalty as recommended by staff.

SBC Datacomm, Inc., 216058

8-1-02 to 8-31-02, \$88,741.27

Action: Approve the relief of penalty as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Duke Energy Moss Landing, LLC, 214865

7-1-01 to 6-30-02, \$198,423.30

Action: Approve the relief of penalty as recommended by staff.

TV Product Fulfillment, Inc., 216142

6-1-01 to 9-30-02, \$121,700.00

Action: Approve the relief of penalty as recommended by staff.

Micromass, Inc., 216089

4-1-96 to 10-28-02, \$263,892.16

Action: The Board deferred consideration of this matter.

Kraft General Foods, 213518

1-1-98 to 12-31-99, \$62,450.95

Action: Approve the denial of claim for refund as recommended by staff.

Phase Metrics, Inc., 152650

1-1-97 to 3-31-00, \$101,054.41

Action: Approve the denial of claim for refund as recommended by staff.

SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Mandel not participating on *International Business Mach. Corporation, 210095*, the Board made the following orders:

Wednesday, May 28, 2003

Hayes Lemmerz International California, Inc., 215295

1-1-00 to 12-4-01, \$54,702.86

Action: Approve the credit and cancellation as recommended by staff.

Rat Oil, Inc., 215835

7-1-99 to 4-30-01, \$163,938.30

Action: Approve the credit and cancellation as recommended by staff.

Hospital of the Good Samaritan, 185678

4-1-99 to 6-30-02, \$57,977.01

Action: Approve the refund as recommended by staff.

Midway Hospital Medical Center, 196912

7-1-02 to 9-30-02, \$88,585.58

Action: Approve the refund as recommended by staff.

All Post, Inc., 104739

7-1-97 to 12-31-98, \$107,848.70

Action: Approve the refund as recommended by staff.

California Institute of Technology, 134980

4-1-96 to 3-31-99, \$482,508.11

Action: Approve the refund as recommended by staff.

Custom Industrial Rack, Inc., 215540

7-1-99 to 6-30-02, \$105,465.12

Action: Approve the refund as recommended by staff.

Regents of the University of California, 63074

1-1-97 to 12-31-01, \$285,738.52

Action: Approve the refund as recommended by staff.

Enterprise IG Corporation, 215538

10-1-99 to 9-30-02, \$79,640.01

Action: Approve the refund as recommended by staff.

Genesys Telecommunications Labs, 213715

1-1-99 to 12-31-01, \$295,576.89

Action: Approve the refund as recommended by staff.

Gloucester Engineering Company, Inc., 181658

10-1-01 to 12-31-01, \$69,522.95

Action: Approve the refund as recommended by staff.

ISR Solutions (Northern California), Inc., 215307

4-1-99 to 3-31-02, \$53,683.19

Action: Approve the refund as recommended by staff.

Wednesday, May 28, 2003

IKOS Systems, Inc., 141775

7-1-00 to 6-30-01, \$69,783.84

Action: Approve the refund as recommended by staff.

Daimlerchrysler Corporation, 60419

10-1-94 to 3-31-98, \$3,944,176.59

Action: Approve the refund as recommended by staff.

Fort James Operating Company, 214854

10-1-98 to 12-31-98, \$277,490.71

Action: Approve the refund as recommended by staff.

Brown Group Retail, Inc., 89000872420

1-1-95 to 3-31-97, \$73,727.84

Action: Approve the refund as recommended by staff.

Fremont Compensation Insurance Company, 143209

7-1-98 to 12-31-01, \$126,423.15

Action: Approve the refund as recommended by staff.

Norcal Mutual Insurance Company, 186740

4/1/99 to 6-30-02, \$92,516.86

Action: Approve the refund as recommended by staff.

Proquire, LLC, 201884

4-1-02 to 6-30-02, \$61,860.68

Action: Approve the refund as recommended by staff.

Entrust Technologies, Inc., 182275

7-1-99 to 9-30-99, \$403,164.75

Action: Approve the refund as recommended by staff.

Carl Zeiss, Inc., 213742

7-1-97 to 9-30-01, \$238,187.72

Action: Approve the refund as recommended by staff.

Lithotechs, LLC, 141361

1-1-99 to 6-30-01, \$62,630.28

Action: Approve the refund as recommended by staff.

Micron PC, Inc., 138237

5-5-00 to 6-30-01, \$68,140.91

Action: Approve the refund as recommended by staff.

Fresenius USA Marketing, Inc., 129074

10-1-99 to 3-31-01, \$416,008.49

Action: Approve the refund as recommended by staff.

Wednesday, May 28, 2003

Netgear, Inc., 190987

1-1-01 to 3-31-02, \$50,179.23

Action: Approve the refund as recommended by staff.

International Business Mach. Corporation, 210095

4-1-00 to 9-30-02, \$99,314.80

Action: Approve the refund as recommended by staff. Ms. Mandel not participating.

Kraft General Foods, 213519

10-1-94 to 12-31-99, \$392,923.19

Action: Approve the refund as recommended by staff.

American Honda Motor Company, Inc., 214980

7-1-97 to 3-31-01, \$2,060,323.33

Action: Approve the refund as recommended by staff.

Qualcomm Investment Company, Inc., 214521

4-1-98 to 6-30-01, \$180,085.02

Action: Approve the refund as recommended by staff.

SPECIAL TAXES MATTERS, DENIAL OF CLAIM FOR REFUND, CONSENT

With respect to the Special Taxes Matters, Denial of Claim for Refund, Consent Agenda, upon a single motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

Union Pacific Railroad Company, 113474

1-1-00 to 12-31-00, \$62,139.00

Action: Approve the Denial of Claim for Refund as recommended by staff.

SPECIAL TAXES MATTERS, REFUNDS, CONSENT

With respect to the Special Taxes Matters, Refunds, Consent Agenda, upon a single motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9 on *Commerce & Industry Insurance Company, 209984; Aetna Life Insurance Company, 205359; and, Guinness Bass Import Company, 216479*, the Board made the following orders:

BP West Coast Products, LLC, 192502

1-1-02 to 1-31-02, \$4,981,235.24

Action: Approve the refund as recommended by staff.

American Procurement & Logistics Company, 215717

4-26-03 to 5-29-03, \$52,335.18

Action: Approve the refund as recommended by staff.

Wednesday, May 28, 2003

Ralphs Grocery Company, 216036

5-26-03 to 6-25-03, \$121,145.26

Action: Approve the refund as recommended by staff.

American Procurement & Logistics Company, 216038

4-26-03 to 6-25-03, \$57,787.68

Action: Approve the refund as recommended by staff.

Penske Truck Leasing Corporation, 208901

1-1-99 to 12-31-01, \$57,633.55

Action: Approve the refund as recommended by staff.

Commerce & Industry Insurance Company, 209984

1-1-01 to 12-31-01, \$205,054.78

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Aetna Life Insurance Company, 205359

1-1-00 to 12-31-01, \$1,801,731.35

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Guinness Bass Import Company, 216479

8-1-00 to 2-28-03, \$190,863.10

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

PROPERTY TAX MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

With respect to the Property Taxes Matters Not Subject to Contributions Disclosure Statute Agenda, upon a single motion of Mr. Chiang, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following orders:

Audits

Citizens Telecommunications Company (7512)

1999, (\$2,570,000.00) Excessive Assessment

2000, (\$2,800,000.00) Excessive Assessment

2001, \$1,060,000.00 Escaped Assessment, \$106,000.00 Penalty, \$159,000.00 In-Lieu Interest

Action: Adopt the audit escaped and excessive assessments, plus penalties and assessment in lieu of interest as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Wednesday, May 28, 2003

RCN Telecom Services of California, Inc. (7775)"

1999, \$127,000.00 Escaped Assessment, \$12,700.00 Penalty, \$41,910.00 In-Lieu Interest

2000, (\$1,753,300.00) Excessive Assessment

2001, \$21,600,000.00 Escaped Assessment, \$2,160,000.00 Penalty, \$3,240,000.00 In-Lieu Interest

2002, \$958,000.00 Escaped Assessment, \$95,800.00 Penalty, \$57,480.00 In-Lieu Interest

Action: Adopt the audit escaped and excessive assessments, plus penalties and assessment in lieu of interest as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Unitary and Nonunitary Escaped Assessments**SBC (formerly Pacific Bell) (279)**

2001-2002, \$8,958,582.00 Value

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Bay Area Cellular Telephone Company, dba AT&T Wireless Services (2502)

1999-2002, \$1,441,964.00 Value

Action: Adopt unitary and nonunitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Sacramento Valley Limited Partnership, dba Verizon Wireless (2513)

2002, \$118,973.00 Value

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

AB Cellular Holding, LLC, dba AT&T Wireless Services (2547)

1999-2002, \$1,399,392.00 Value

Action: Adopt unitary and nonunitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

GTE Mobilnet of California, Limited Partnership, dba Verizon Wireless (2559)

2002, \$271,209.00 Value

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

AT&T Wireless Services of California, Inc., (2606)

1999-2002, \$245,197.00 Value

Action: Adopt unitary and nonunitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

SLO Cellular, Inc., dba CellularOne of San Luis Obispo (2687)

1999-2002, \$396,917.00 Value

Action: Adopt unitary and nonunitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Wednesday, May 28, 2003

Nextel of California, Inc. (2737)

2002, \$69,291.00 Value

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Pacific Bell Wireless, LLC, dba Cingular Wireless (2748)

2001-2002, \$223,977.00 Value

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

AT&T Wireless PCS, LLC (2749)"

1999-2002, \$622,465.00 Value

Action: Adopt unitary and nonunitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Board Roll Changes

2000, 2001 and 2002 State-Assessed Rolls

Action: Approve corrections to the 2000, 2001 and 2002 Board Rolls of State-Assessed property as recommended by staff (Exhibit 5.19). Ms. Mandel not participating in accordance with Government Code section 7.9.

ADMINISTRATIVE SESSION

RESOLUTION CONFERRING POWERS ON THE INTERIM EXECUTIVE DIRECTOR

Jean Ograd, Acting Chief Counsel, made introductory remarks regarding the resolution conferring powers on the Interim Executive Director, Timothy W. Boyer.

Ms. Migden acknowledged James E. Speed for his longtime contribution to the State Board of Equalization.

Action: Upon motion of Mr. Leonard, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted a resolution conferring on Timothy W. Boyer the authority to act for and on behalf of the Board in the capacity of Interim Executive Director.

ADMINISTRATIVE MATTERS, CONSENT

Action: (Motion expunged.)

With respect to the Administrative Matters, Consent Agenda, with the exception of Sub-Item 6, Proposed Special Topic Survey, upon a single motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

Action: Adopt the following resolutions extending its best wishes on their respective retirements and its appreciation for their service to the State Board of Equalization and the State of California (Exhibit 5.20).

Wednesday, May 28, 2003

James E. Speed, Executive Director, Headquarters
Stephanie L. Kimball, Tax Technician I, Support/Account Information Unit,
Headquarters
Diamantina "Monti" Salazar, Supervising Tax Technician I, Headquarters
Carole Heale, Office Services Manager I, Cashier Unit, Headquarters

Action: Approve the Board Meeting Minutes of March 26, 2003 and April 23, 2003.

Action: Approve the corrected Board Meeting Minutes of September 12, 2002 and February 5, 2003.

Action: Approve the 4-R Act Equalization Ratio for 2003-04.

Action: Approve the 2003-04 Tobacco Products Tax Rate.

Action: Approve the extensions of time to complete and submit 2003-04 Local Assessment Rolls pursuant to Revenue and Taxation Code section 155 granted to Mariposa, Orange, Tehama and Trinity Counties.

With respect to the Administrative Matters, Consent Agenda, Proposed Special Topic Survey, upon motion of Ms. Migden and duly carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Leonard and Mr. Parrish voting no, the Board made the following order:

Action: Approve the Proposed Special Topic Survey.

CHIEF COUNSEL MATTERS– NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

PROPERTY TAX MATTERS

Applications for Review, Equalization and Adjustment of Assessments

Consideration of Notices of Decision

City of Long Beach, 183272

City of Los Angeles, 183273

2002

Action: Upon motion of Ms. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang and Ms. Mandel not participating, the Board adopted and applied the April 2, 2000 Findings and Decision.

CHIEF COUNSEL MATTERS

Ms. Migden stated for the record that although Item N, Delegation of Authority for Cancellation of Determinations, was removed from the calendar she would like to comment on the matter of staff's response to the item.

Wednesday, May 28, 2003

Ms. Migden requested that the minutes record the substance of the request by the Board to staff and that Board Proceedings Division review the requested information to verify that it is indeed the information the Board sought before submitting the matter to the Board for approval.

Mr. Leonard expressed that his concern, that within a public hearing forum, we are violating the taxpayer's privacy on issues where there wasn't ever a liability. He proposed that staff examine whether the Board could handle Cancellation of Determinations and at the same time protect the taxpayer's privacy.

Ms. Migden directed staff to consider the following issues when this item is returned to the Board for approval: 1) Taxpayer protection issue and 2) the ministerial function that the Board would consider giving staff.

PROPERTY TAX MATTERS

Welfare Exemption Streamlining Project Legislative Option Package

Speakers: Cathy Colt, Chief Deputy, Riverside County Assessor's Office, spoke in favor of the Welfare Exemption Streamlining Project Legislation, which would be a major improvement in how exempt organizations receive approval.
Donald E. Williamson, Assessor, San Bernardino County, spoke in favor of the Welfare Exemption Streamlining Project Legislation, which would include a one-time permanent status filing.

Kristine Cazadd, Assistant Chief Counsel, Property Taxes Division, Legal Department, made introductory remarks regarding the *Welfare Exemption Streamlining Project Legislative Option Package*. The purpose is to achieve state and local cost savings. Possible legislative options available: (1) streamline the claim filing process; (2) simplify governing documents approval; (3) reorganize the administrative appeal process for denied claims; and, (4) compliance audits (Exhibit 5.21).

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board deferred consideration of this matter.

RULEMAKING

Petition for New Property Tax Rule 136, Qualifying Organizations

Kristine Cazadd, Assistant Chief Counsel, Property Taxes Division, Legal Department, made introductory remarks regarding the petition for the new *Property Tax Rule 136, Qualifying Organizations*, to clarify that "the reference in Revenue and Taxation Code section 214(a) to property owned and operated by community chests, funds, foundations, or corporations includes property owned and operated by limited liability companies or any other form of entity provided that they are not organized or operated for profit and other requirements are met." Ms. Cazadd stated that staff's recommendation is to postpone a decision regarding the new rule and incorporate the language into the proposed Welfare Exemption Streamlining Project Legislation (Exhibit 5.22).

Wednesday, May 28, 2003

Action: The Board deferred consideration of this matter.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 3:20 p.m. and reconvened immediately in closed session with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss settlements (Revenue and Taxation Code sections 6901, 7093.5, 30459.1 and 50156.11), and personnel matters (Govt. Code § 11126(a)).

The Board recessed at 3:36 p.m. and reconvened immediately in open session with Mr. Parrish, Mr. Leonard and Ms. Mandel present.

CHIEF COUNSEL MATTERS

RULEMAKING

Petition for New Property Tax Rule 136, Qualifying Organizations

Mr. Leonard stated that the Board decision to defer the decision on the new Property Tax Rule 136, Qualifying Organization should be placed in the form of a motion.

Action: Upon motion of Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard Mr. Chiang and Ms. Mandel voting yes, the Board deferred consideration of this matter to be decided with the Welfare Exemption Streamlining Project Legislative Option Package.

SALES AND USE TAX APPEALS HEARINGS

Mr. Leonard requested staff provide greater consistency and clarity in facts and background included in tax hearing summaries presented to the Board for vote, specifically the amount of the tax, penalty and/or interest amounts and any other pertinent amounts, such as taxable measure.

Mervyn's, 135351

10-4-93 to 4-4-98, \$493,065.64 Tax

For Petitioner:

Amy Silverstein, Representative

For Sales and Use Tax Department:

Jeffrey H. Graybill, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the \$5.00 fee charged by petitioner to a customer upon the customer's purchase of merchandise on a layaway plan is part of the sale price of the merchandise that must be refunded for purposes of the returned merchandise deduction.

Whether the use of a cash return rate overestimated the disallowed return merchandise deduction for merchandise purchased under petitioner's layaway plan..

Wednesday, May 28, 2003

Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and duly carried, Mr. Parrish and Mr. Leonard voting yes, Ms. Mandel voting no, Ms. Migden and Mr. Chiang absent, the Board ordered that the petition be granted and the tax be redetermined accordingly.

Rajesh Prakash Sharma, et al., 130651

7-1-97 to 6-30-00, \$50,277.62 Tax

For Petitioner: Zarina Sharma, Owner

For Sales and Use Tax Department: Kevin Hanks, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the evidence shows that the audited taxable sales are excessive.

Whether a reduction is warranted based on petitioner's allegation that the audited liability for the period January 1, 2000, through June 30, 2000, should not be based on the results of the 1999 test year.

Whether the evidence shows that petitioner is entitled to an adjustment for bad debts.

Action: Upon motion of Ms. Migden unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the petition be submitted for decision.

Pacific Bagel Partners, LP, 130640

1-1-97 to 12-31-99, \$42,017.32 Tax

For Petitioner: Abe Golomb, Representative

Les Keenan, Representative

For Sales and Use Tax Department: Kevin Hanks, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether the evidence shows that the audited taxable sales for the Corona Del Mar store are excessive.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the petition be redetermined with adjustments.

Corporate Express Office Products Inc., 89000875620, 89000875630

7-1-94 to 6-30-97, \$ 102,925.88 Tax, \$73,612.09 Negligence Penalty

For Petitioner: Michael Campbell, Tax Manager

For Sales and Use Tax Department: Kevin Hanks, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether there were posting errors to petitioner's sales tax accrual account.

Whether the evidence supports reduction of the audited amount of disallowed nontaxable/exempt sales.

Whether petitioner has shown that its purchases of fixed assets were, in fact, from California vendors, not out-of-state retailers and, thus, the transactions in question are subject to sales tax against the vendors, not use tax against petitioner.

Whether petitioner is entitled to an adjustment for bad debts.

Whether the negligence penalty was properly imposed.

Wednesday, May 28, 2003

Action: Upon motion of Ms. Migden unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the petition be submitted for decision.

RKM Micro Systems, Inc., 48081

1-1-96 to 12-31-98, \$315,303.71 Tax, \$78,825.93 Fraud Penalty

For Petitioner: No Appearance

For Sales and Use Tax Department: Sharon Jarvis, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Sales and Use Tax Department properly determined the amount of petitioners' underreported taxable sales.

Whether the Department has established that petitioner committed fraud or acted with an intent to evade its obligation to accurately report its taxable sales.

Action: Upon motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the petition be denied and redetermined as recommended by the Appeals Division.

Metro Border, LLC, 132974

10-1-97 to 9-30-00, \$27,475.86 Tax

For Petitioner: Appearance Waived

For Sales and Use Tax Department: Kevin Hanks, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether the amount of unreported ex-tax purchases of fixed assets should be further reduced.

Action: Upon motion of Ms. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the petition be denied and redetermined as recommended by the Appeals Division.

Paul E. Blaubach, 146064

10-1-98 to 6-15-00, \$8,741.11 Claim for Refund

For Petitioner: Appearance Waived

For Sales and Use Tax Department: Robert Tucker, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether claimant is entitled to relief from the penalties for late prepayments.

Whether claimant is entitled to relief from the penalties under Revenue and Taxation Code section 6596.

Action: Upon motion of Ms. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered the relief of late prepayment penalties for October and November 1998, January, February, April, May, June and August, otherwise denied the claim for refund.

Conner Family Trust (DTD 2-23-91), 107037

Action: This matter has been postponed to the June 25, 2003 Board meeting.

Wednesday, May 28, 2003

FINAL ACTION ON PETITIONS HEARD MAY 28, 2003

Upon motion of Ms. Mandel, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the petition of *Rajesh Prakash Sharma, et al., 130651*, be denied and redetermined as recommended by the Appeals Division, allowing a generous payment plan, and directed staff to keep the petitioner informed of the regulatory process regarding Rebates and Incentives, but this action is not to be construed as a substantive decision on something that the Board is presently considering through committee.

Upon motion of Ms. Migden, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the petition of *Corporate Express Office Products Inc., 89000875620, 89000875630*, be denied and redetermined as recommended by the Appeals Division.

ADMINISTRATIVE SESSION

BOARD COMMITTEE REPORTS

Business Taxes Committee

Upon motion of Ms. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board approved the Business Taxes Committee report (Exhibit 5.23).

Property Tax Committee

Upon motion of Ms. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board approved the Property Tax Committee report (Exhibit 5.24).

The Board adjourned at 4:30 p.m.

The foregoing minutes are adopted by the Board on September 24, 2003.

Note: The following cases were removed from the calendar prior to the meeting: *Shirley and Ronnie Mayberry, 181462*; and, *William T. and Anne E. Rowlands, Mary Low Vieira and Donald Neal Vieira, 114639*.

Wednesday, May 28, 2003